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Shaping the future for business rates

A comprehensive review of business rates is underway in England. The government recently published an interim report, with the final report delayed until autumn. One definite change coming is the closing of a loophole that has allowed people to avoid rates on holiday lets.

The current economic uncertainty has seen the government extending full relief through to the end of June for eligible retail, hospitality and leisure properties in England, as well as freezing the business rates multiplier in 2021/22. From 1 July 2021 to 31 March 2022 the rate falls to 66% in England. The governments of Scotland, Wales and Northern Ireland have extended business rate relief for twelve months. However, many high-street businesses want a more permanent overhaul to business rates to help them cope with the competition coming from online retailers.

Interim findings

The initial consultation, published as part of 'Tax Day' on 23 March, found the idea of replacing business rates with a capital value tax is not popular. Responses instead focused on improvements to the current system. For example:

- Reliefs and exemptions are too complicated.
- Small business rates relief can be a deterrent to expansion.
- Empty property rates unfairly penalise landlords.
- The current system, based around the business rates multiplier, is too inflexible and unresponsive to economic fluctuations.

A common view expressed by respondents is that the complexity of reliefs and the high overall burden create an incentive to attempt avoidance.

Holiday let loophole

Owners of holiday lets and second homes in England have been able to avoid council tax by registering their properties as businesses and therefore subject to business rates. In the vast majority of cases, small business rates relief then means no business rates are payable.

Business registration has been possible if a property was available to let for 140 days or more in a year. This is open to abuse when little or no realistic effort is made by landlords to attract lettings. New legislation will change the criteria so a property must actually be let out for 140 days to receive relief, somewhat stricter than the 105-day furnished holiday letting condition.

The interim report was published alongside a call for evidence, open until 31 October, and both can be found here.

Changing tax payments for SMEs

As making tax digital extends to businesses and landlords from April 2023, the government is considering whether to increase the frequency of tax payments, both for the self-employed and companies.

The recently published consultation is part of the government's ten-year strategy to build a modern tax administration system.

Current problems

The newly self-employed can go up to 22 months after commencement before their first tax bill, which can lead into debt. A similar problem arises if there is a large increase in profits from one year to the next.

The consultation is only concerned with companies outside the quarterly instalment regime. The normal due date for such companies to pay their corporation tax is nine months and one day following the accounting period end, so again a significant time lag. It is all too easy for funds to have been spent if a year of high profits is followed by one with much lower income.

Spreading payments

One option likely to be available soon is an improvement to HMRC's budget payment plan, making it easier for taxpayers to voluntarily budget for future tax payments.

The consultation considers a move to quarterly or even monthly tax payments and points out that the majority of taxpayers already pay monthly or weekly under PAYE. However, a move to quarterly or monthly tax payments will mean more time spent on calculation and reporting, increasing the administrative burden on SMEs. More frequent tax payment also throws up other issues:

- The funds available to a business in-year will be reduced.
- The chosen frequency may not be appropriate for different trades or sectors.
- Income tax and corporation tax are designed to be calculated on an annual basis, with reliefs, allowances, adjustments, and certain deductions factored in at the year-end.

The closing date on the call for evidence on the consultation is 31 July.

Should you incorporate?

The planned increase in corporation tax has changed some of the mathematics on incorporation.

The Budget announced a significant change to corporation tax from 2023:

- Small companies, with profits of up to £50,000, would continue to pay the tax at the current rate of 19%, subject to adjustments for associated companies and financial periods of other than 12 months.
- Large companies with profits of over £250,000 will pay corporation tax at a rate of 25%.
- For companies whose profits fall between £50,000 and £250,000 HMRC have said that there will be "marginal relief provisions", which have now been set out in the Finance Bill. As under previous corporation tax regimes, the marginal relief is given by applying the lower rate up to the small companies limit and then applying a higher than standard marginal rate to profits above that threshold. With the new rates from 2023, the £200,000 band of profits above £50,000 will suffer a marginal tax rate of 26.5%.

At present, from a tax viewpoint, it can be better to run a business via a company rather than on a self-employed basis. This is mainly because a company will allow the bulk of earnings to be received as dividends, thereby avoiding national insurance contributions (NICs). While this approach will still work for businesses with profits that would attract only the 19% small companies' rate, it is a different picture for higher profits, as the example below shows.

Higher corporation tax rate bites

Phil's business generates £100,000 of profit. If he has no other income, the tax situation as self-employed or as a company now and in 2023/24 is:

	Self-employed	**Company 2021/22**	**Company 2023/24**
Gross profit	£100,000	£100,000	£100,000
Salary	N/A	£8,840	£8,840
Taxable profit	£100,000	£ 91,160	£ 91,160
Corporation tax		(£17,320)	(£20,407)
Dividend		£73,840	£70,753
Income tax	(£27,432)	(£13,211)	(£12,207)
NICs	(£ 4,816)		
Net income	**67,752**	**£69,469**	**£67,386**

If Phil decides to incorporate, then the tax savings will turn into a tax loss after two years.

The decision on business structure should never be made based on tax alone as there are many other factors involved. However, the deferred tax changes announced in the Budget may tip the scales for some. As ever, advice based on your personal – and business – circumstances is essential.

Missing out on tax-free childcare

By setting up an online childcare account, you can get a government top-up to help with the costs of childcare. However, thousands are missing out on this payment.

Tax-free childcare is worth up to £500 every three months (£2,000 a year) for each of your children, which doubles if a child has disabilities. Despite the impact of lockdowns, nearly 250,000 families saved money using the scheme in December 2020, an increase of more than 40,000 compared to a year earlier.

How tax-free childcare works

Your child must be aged under 12, with eligibility ceasing on 1 September after their 11th birthday (under 17 if a child has disabilities).

For every £8 you pay into your childcare account, the government will pay £2. These amounts can then be used to pay for approved childcare, such as:

- childminders, nurseries and nannies;
- after school clubs and play schemes; and
- home care agencies.

The childcare provider must also be signed up to the scheme, but there is no other reason why childcare cannot be provided by a relative.

You can only get help paying for care outside of normal school hours, so, for example, private music lessons during school hours don't count. Money can be saved during term time, earning the government top-up, and then used for summer camps or play schemes during school holidays.

Restrictions

There are certain restrictions on eligibility:

- **Other benefits** – You cannot have tax-free childcare and also receive universal credit, tax credits or childcare vouchers, so it is worth checking if tax-free childcare is the right option.
- **Minimum income** – Both parents must normally earn at least the national minimum/living wage. However, you may still be entitled if temporarily earning less as a result of Covid-19.
- **Maximum income** – Both parents must earn less than £100,000. If previously ineligible, you might now qualify if income has fallen, for example due to being furloughed.

You can check if you're eligible for tax-free childcare, find out how to apply and how to pay your childcare provider here.

Freeport tax incentives

Among the development measures the Chancellor announced in the March Budget were eight new freeports in England. These are due to enter operation in late 2021, with each freeport including a defined tax site within which a range of tax incentives and reliefs for businesses will apply. These tax breaks will mostly last for five years.

Discussions are ongoing regarding the creation of freeports in Scotland, Wales and Northern Ireland. Businesses operating within a freeport's tax site will benefit from several incentives:

- **Enhanced capital allowances** – Investment in plant and machinery that is new and unused will qualify for a 100% deduction against profits, regardless of whether the expenditure falls into the main or special rate capital allowances pool. The assets purchased must primarily be for use within the freeport tax site. Relief will be available from when a site is designated until 30 September 2026.
- **10% rate of structures and buildings allowance** – This enhanced rate will mean that investment in non-residential structures and buildings within a freeport tax site will be written off over ten years rather the usual 33⅓-year period. To qualify, the structure or building will have to be brought into use by 30 September 2026.
- **Relief from stamp duty land tax** – Land and property purchased in an English freeport tax site and used for a qualifying commercial purpose will benefit from 100% relief, with relief available from designation until 30 September 2026.
- **Business rates relief** – Full relief will be available for all new businesses and certain existing businesses where they expand. Relief will apply for five years from the point at which relief is first given.
- **Employer NICs** – Still to be confirmed, but the intention is to give full relief from employer NICs for employees working in a freeport tax site. Relief will run from April 2022 (or when a site is designated) to April 2026 but could be extended until April 2031.

The government published a series of questions and answers following the freeport bidding process which can be found here.